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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150413357-5999-02]

RIN 0648-XE634

Atlantic Highly Migratory Species; Commercial Blacknose Sharks and Non-Blacknose Small Coastal Sharks in the Atlantic Region South of 34° N. Latitude; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the fisheries for commercial blacknose sharks and non-blacknose small coastal sharks (SCS) in the Atlantic region south of 34°00' N. lat. This action is necessary because the commercial landings of Atlantic blacknose sharks for the 2016 fishing season are projected to exceed 80 percent of the available commercial quota as of May 27, 2016, and the blacknose shark and non-blacknose SCS fisheries south of 34°00' N. lat. are quota-linked under current regulations.

DATES: The commercial fisheries for blacknose sharks and non-blacknose SCS in the Atlantic region south of 34°00' N. lat. are closed effective 11:30 p.m. local time May 29, 2016, until the end of the 2016 fishing season on December 31, 2016, or until and if NMFS announces via a notice in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Guyl DuBeck or Karyl Brewster-Geisz 301-

427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), dealers must electronically submit reports on sharks that are first received from a vessel on a weekly basis through a NMFS-approved electronic reporting system. Reports must be received by no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. The quotas for blacknose sharks and the non-blacknose SCS management group south of 34°00' N. lat. in the Atlantic region are linked (§ 635.28(b)(4)(iv)). Under § 635.28(b)(3), when NMFS calculates that the landings for any species and/or management group of a linked group has reached or is projected to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until and if NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups are closed, even across fishing years.

On December 1, 2015 (80 FR 74999), NMFS announced that for the Atlantic region, the 2016 commercial Atlantic blacknose shark quota is 15.7 metric tons (mt) dressed weight (dw) (34,653 lb dw), and the non-blacknose SCS quota is 264.1 mt dw (582,333 lb dw). At § 635.27(b)(1), the boundary between the Atlantic region and the Gulf of Mexico region is defined

as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of monitoring and setting quotas, to be within the Atlantic region.

Dealer reports received through May 23, 2016, indicated that 9.3 mt dw or 59 percent of the available Atlantic blacknose shark quota had been landed and 31.5 mt dw or 12 percent of the available Atlantic non-blacknose SCS quota had been landed. Based on catch rates from these dealer reports, NMFS estimates that the 80-percent limit specified for closure for blacknose sharks will be exceeded as of May 27, 2016. Accordingly, NMFS is closing both the commercial blacknose shark fishery and non-blacknose SCS management group in the Atlantic region south of 34°00' N. lat. as of 11:30 p.m. local time May 29, 2016. All other shark species or management groups that are currently open in the Atlantic region will remain open, including the commercial Atlantic non-blacknose SCS management group north of 34°00' N. lat.

During the closure, retention of blacknose sharks and non-blacknose SCS in the Atlantic region south of 34°00' N. lat. is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit (LAP) under § 635.4. However, persons aboard a commercially permitted vessel that is also properly permitted to operate as a charter vessel or headboat for highly migratory species (HMS) and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and “no sale” provisions (§ 635.22(a) and (c)).

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive blacknose sharks in the Atlantic region from a vessel issued a shark LAP, except that a permitted shark dealer or processor may possess blacknose sharks and/or non-blacknose SCS in the Atlantic region south of 34°00' N. lat. that were harvested, off-loaded, and sold, traded, or

bartered prior to the effective date of the closure and were held in storage consistent with § 635.28(b)(6) and non-blacknose SCS that were harvested in the Atlantic region north of 34°00' N. lat. Similarly, a shark dealer issued a permit pursuant to § 635.4, in accordance with relevant state regulations, may purchase or receive blacknose sharks and/or non-blacknose SCS in the Atlantic region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued a shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fisheries are currently underway and any delay in this action would result in overharvest of the Atlantic blacknose quota and be inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quota is exceeded, the stock may be negatively affected and fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3).

This action is required under § 635.28(b)(3) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2016.

Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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